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Marilyn R. Khorsandi May 31, 2011
Marilyn R. Khorsandi

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Bilibin, Paul et al.
Application No. : 09/684,861
Filed : October 6, 2000
Title : Apparatus, Systems and Methods for Determining
Delivery Time Schedules for Each of Multiple Carriers
Grp./Div. : 3623
Examiner : Pats, Justin
Docket No. : PSTM0024/MRK

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

140 S. Lake Ave., Suite 312
Pasadena, CA 91101-4710
May 31, 2011

DECLARATION UNDER 37 C.F.R. SECTION 132
BY WILLIAM W. SMITH III
FILED IN SUPPORT OF
AMENDMENT AND RESPONSE TO OFFICE ACTION
DATED DECEMBER 30, 2010 REGARDING THE ABOVE-IDENTIFIED
APPLICATION

BACKGROUND INFORMATION ABOUT THE DECLARANT

1. I, WILLIAM W. SMITH III, am Chief Technology Officer ("CTO") of iShip Inc., a wholly owned subsidiary of United Parcel Service, which is one of the assignees of the above-mentioned application. I have been in the employ of iShip Inc., or one of its predecessor's in interest, since at least 1995, and in the present capacity as Chief Technology Officer since at least 1997.

2. iShip Inc. is an online provider of a multi-service, multi-carrier, Internet-enabled server-based shipping management system (at, among others,

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www.iship.com) for use by small volume shippers such as small businesses and home offices. The multi-carrier, multi-service, Internet-based shipping management system that iShip Inc. offers provides shipping users ("shippers") with a cross-comparison of shipment rating, service options, delivery schedules and other services by each of the multiple carriers for each of multiple services so that a shipper can compare multiple services offered by the multiple carriers and select one service offered by one of the multiple carriers to ship a parcel. When I first became involved in the development of this particular shipping management system, I worked for Movelt! Software Inc. ("Movelt!"), a company that was founded in 1997; I was one of three founders. Movelt! eventually became iShip.com, Inc., which eventually merged with Stamps.com Inc. and which is currently a wholly owned subsidiary of United Parcel Service ("UPS"). As of the date of this Declaration, iShip Inc. and Stamps.com are joint owners in common of the subject invention.

3. I hold a Master of Science degree, granted in 1988, in Industrial Engineering and Operations Research from Virginia Tech.

4. This Declaration is made with reference to a previously-filed Declaration by John Dietz ("Verified Statement (Declaration) Number 1 ..." (which may be referred to herein as the "Dietz Declaration" or "Dietz Decl."). It is my recollection and belief, and as was stated in the Dietz Declaration, that Movelt! had entered into an agreement (the "CEI Beta Test Agreement") with College Enterprises, Inc. ("CEI") during late November, 1997 to install, operate, monitor, support and nurture a Beta Test version of an early prototype multi-carrier Internet-based shipping system at a selected college campus.

5. It is my recollection and belief that the Internet-based shipping system prototype was subsequently installed by Movelt!/iShip.com on or about April 15, 1998 for Beta Test pre-processing of small parcels by shippers at the University

of California, Santa Barbara and for Beta Test shipping of parcels by Shipping Station operators at the Pulse Copy and Technology Center at the University of California, Santa Barbara (the "Santa Barbara Beta Test").

6. It is my recollection and belief that the Pulse Copy and Technology Center shipping station operators were employees of or contractors to CEI and were subject to a non-disclosure agreement between Movelt/iShip.com and CEI as evidenced by the copy of the non-disclosure agreement between CEI and Movelt/iShip.com that was attached as Exhibit H to the Dietz Declaration. It is my recollection and belief that Movelt/iShip.com personnel trained Pulse Center personnel during the period from April 15, 1998 through April 17, 1998 to be Shipping Station operators for the Santa Barbara Beta Test environment.

7. It is my recollection and belief that the Santa Barbara Beta Test environment became available for use by shipment pre-processing users, including students and faculty, from the Santa Barbara campus on or about April 20, 1998. It is my recollection and belief that the Beta Test environment was restricted to use by accesses from Internet Protocol Addresses on the Santa Barbara campus. That is, as is my recollection and belief, the Beta Test environment was not accessible by computers that accessed the Internet from Internet Protocol Addresses that were outside of the Santa Barbara campus. It is my recollection and belief that the aforementioned Beta Test environment restriction was implemented in the Beta Test system by restricting access of the Beta Test website address to accesses by Internet Protocol ("IP") addresses that were within a range of IP addresses that were located on the Santa Barbara campus; only computers with IP addresses within that authorized range of IP addresses were authorized to, and allowed to, access the Beta Test website.

8. It is my recollection and belief that Movelt/iShip.com computer software code was viewable and modifiable only by those personnel that worked for Movelt/iShip.com.

9. It is my recollection and belief, and as was declared in the Dietz Declaration, that Movelt/iShip.com supported the Santa Barbara Beta Test through several Beta releases, applying software modifications and making hardware adjustments to fix defects identified by both the Beta Test participants on the U.C. Santa Barbara campus and by Movelt/iShip.com support personnel. It is my recollection and belief that the software fixes made as a result of the Santa Barbara Beta Test were logged using software named "Tracker" by a company named "Intersolv." It is my belief that a backup tape of the software fixes may still exist. However, as of the date and time of this Declaration, as a result of more than a decade having passed since both the above-mentioned merger of iShip with Stamps.com and the subsequent acquisition by UPS, I am unaware of the location of such a backup tape. Further, it is my belief and understanding that iShip is no longer in possession of a viable copy of the above-mentioned Tracker software that would be needed to intelligibly display the software fixes that had been made during the Santa Barbara Beta Test in the form of a software log. Even so, it is my recollection and belief, and as was declared in the Dietz Declaration, that Movelt/iShip.com made software and hardware fixes numbering at least in the hundreds during and throughout, the Santa Barbara Beta Test.

10. It is my recollection and belief that the Santa Barbara Beta Test website did not generate an online interactive prompt of interactive shipping rate fields that were configured for user selection, such that a user selection of such an interactive shipping rate field would result in the generation of a shipping label for printing at a printer that was in communication with the user's client computer. Rather, it is my recollection and belief that the Movelt/iShip.com system tested

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as part of the Santa Barbara Beta Test would receive a user's pre-processing input for a package and would display a chart of rates, as depicted in a true and correct copy of a screen mockup for the Santa Barbara Beta Test attached hereto as Exhibit A. It is my recollection and belief that in the Santa Barbara Beta Test, the charted rates were selectable -- however, a user clicking on a particular rate in the chart of rates would not result in the printing of a shipping label -- rather, clicking on a particular rate would only cause a display of a screen summarizing the shipping information, and depicting an estimated shipping cost and a package number, as depicted in a true and correct copy of a screen mockup for the Santa Barbara Beta Test attached hereto as Exhibit B. It is my recollection and belief that a pre-processing student or faculty user would then have to take the package to be shipped to a Shipping Station operator (who would have been subject to a confidentiality agreement) at CEI's Pulse Copy and Technology Center for final label generation and shipping. It is my recollection and belief that at the CEI Pulse Copy and Technology Center, a CEI Shipping Station operator (who would have been subject to a confidentiality agreement) would then have to enter the package number and weigh the package, as depicted in a true and correct copy of shipping station screen mockups as attached hereto as Exhibits C and D. It is my recollection and belief that after entering the package number and weighing the package, the CEI Shipping Station operator (who would have been subject to a confidentiality agreement) would then have been able to print a shipping label, as described in a true and correct copy of a shipping station screen mockup as attached hereto as Exhibit E. It is my recollection and belief that the above-described pre-processing and subsequent shipping station operator procedure was in place during the entire Santa Barbara Beta Test environment, and at no time during the Santa Barbara Beta Test environment, could a pre-processing user click a rate on a displayed rate chart and print a shipping label at the pre-processing user's own computer.

11. It is my understanding, recollection and belief that CEI was the party with whom the carriers (e.g., UPS, Airborne, etc.) would have contracted to pay revenues, such as a "commission," for packages that were shipped through CEI's Pulse Copy and Technology Center at UC Santa Barbara. It is my understanding, recollection and belief that revenues would have been earned by CEI for packages, such as, for example, for each package, or possibly, for an incremental number of packages, that were shipped by one of CEI's contracting carriers through CEI's Pulse Copy and Technology Center at UC Santa Barbara – the revenues would have been earned by CEI whether or not a student or faculty member may have first "pre-processed" shipping of their respective packages using the Beta Test MoveIt!/iShip website, and whether or not a CEI Shipping Station Operator (who was subject to a confidentiality agreement) may have used the Beta Test MoveIt!/iShip website to print a shipping label. After reviewing documents regarding the Santa Barbara Beta Test, it is my understanding, recollection and belief, and as was declared in the Dietz Declaration, that CEI never shared any revenues with MoveIt!/iShip that CEI may have derived for packages that may have been shipped with a label that may have been printed, or for a package that may have been pre-processed, using the Beta Test MoveIt!/iShip.com website.

12. It is my recollection and belief that later, on or about October 2, 1998, MoveIt!/iShip.com entered an agreement whereby MoveIt!/iShip.com would pay Microsoft a fee based on the number of "click throughs" from the Microsoft (MSN) website to a MoveIt!/iShip.com Website. It is my recollection and belief that an embodiment of the "click through" agreement was not implemented live on the Internet until sometime on or after October 6, 1998, which did not precede by more than one year the October 6, 1999 filing date of the first provisional application to which the present application claims priority.

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13. After the Santa Barbara Beta Test, and until the above-mentioned Microsoft "click-through" live Internet implementation, it is my recollection and belief that Movelti/iShip.com did not enter into any further revenue-sharing agreements with any other platform partners, and did not derive any revenues from any such agreements.

14. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of United States Code and that such willful false statements may jeopardize the validity of the application or any corresponding U.S. patent.

Date:

May 27, 2011 W.W.Smith

William W. Smith III

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EXHIBIT A
TO DECLARATION UNDER 37 C.F.R. SECTION 132
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Shipping Start Frame - Microsoft Internet Explorer

Options If you select an Option, the fields associated with the Option are required.

If you enter a Declared Value, the value must be greater than \$100.00.

Declared Value \$ 150.00 Saturday Delivery

Check here if you want to have another person notified when your package has been sent. You can include a brief personal message with the notice.

Outbound Alert

Name: Message:

E-Mail:

Click on the price within a cell to select your Service and Carrier.

Services	One Day (Early)	One Day (AM)	One Day (PM)	Two Day	Three Day	Ground
UPS	\$64.60 Fri 4/17/98 8:30am	\$39.60 Fri 4/17/98 10:30am	\$34.85 Fri 4/17/98 3:00pm	\$18.60 Mon 4/20/98 5:00pm	\$12.75 Tue 4/21/98 5:00pm	\$7.16 No Guar. Time
FedEx	Not Available Fri 4/17/98 10:30am	\$43.00 Fri 4/17/98 3:00pm	\$37.75 Fri 4/17/98 3:00pm	\$21.25 Mon 4/20/98 4:30pm	\$20.20 Tue 4/21/98 4:30pm	
Airborne		\$32.16 Fri 4/17/98 12:00pm	Not Available	\$18.00 Mon 4/20/98 5:00pm		

*** Shipping**

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EXHIBIT B

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Shipping Start Frame - Microsoft Internet Explorer

Summary

PACKAGE INFORMATION:

Actual Weight: 10.00 lbs. Billed Weight: 10.00 lbs.
 Packaging Type: Carrier Box
 Dimensions: N/A
 Reference #1: RMA # 123-456
 Reference #2:
 Desc. of Goods: 3 Acme widgets
 Notes: Returned widgets to Acme that I didn't need.

Previous

FROM:

Ima Student
 Univ. of Calif. SB
 OnCampus Hall
 Room 345
 Santa Barbara, CA 93107
 (805) 986-3863
 imastudent@vt10.edu

SERVICE & OPTIONS:

Carrier UPS
 Service: 3-Day Select
 Options: Declared Value: \$150.00

DROP OFF LOCATION: COSTS:

	9.00 lbs.	\$11.45
	9.00 lbs.	\$12.45
	10.00 lbs.	\$12.75
	11.00 lbs.	\$13.45
	12.00 lbs.	\$14.15

←-- Estimated* cost

Finish

By Clicking on "Finish" and giving Movit! your package via the Shipper's Network and affiliated retail locations, you agree, for yourself and as agent for and on behalf of any other person having an interest in this package, to all Terms of Service contained on this site or specified by the selected carrier on any applicable waybill, tariff or service guide, including terms which may limit the liability of Movit!.

*** Shipping**

Reset **Close** **Help**

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EXHIBIT C
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MoveIt! Shipping Station



Admin

If you know the MoveIt! Tracking Number of the package you wish to ship,
please enter it in the space below and click the **Search** button.

MoveIt! Tracking Number:

To review a list of your shipping requests, enter your MoveIt! User ID
and Password in the spaces below and click the **Log On** button.

User ID:

Password:

Next Pick Up Date: Today at 4 PM - Thursday, April 16, 1998

Copyright 1998 MoveIt! Software, Inc. All rights reserved.
MoveIt! Shipping Station - ALPG

Shipping Start

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EXHIBIT D
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MoveIt! Shipping Station

[Cancel](#)

MUOC0U0056J9R

Acme Corp
John Doe
123 45th Ave
Suite 678, Mailstop 9
Boulder, CO 80302 US

INSTRUCTIONS:

1. To obtain the **actual weight**, place your package on the scale now.
2. Allow the scale to stabilize, and then click the **Next** button.

For your information: Your *estimated weight* was 10.00 lbs.

Scale Information:**8.50 lbs.**

Stabilized

[Cancel](#)[Next >](#)**Step 1 of 2 - Get Actual Package Weight**

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EXHIBIT E
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MoveIt! Shipping Station



[Cancel](#)

INSTRUCTIONS:

If everything is correct, press the **Finish** button to print your label and receipt.
If there is a problem with your package, please notify the store clerk.

SHIP TO:
Acme Corp
John Doe
123 45th Ave
Suite 678
Mailstop 9
Boulder, CO 80302

CARRIER AND SERVICE:
Carrier: UPS
Service: 3 Day Select
Options: Declared Value (\$150.00)
Guar. Delivery: 4/21/98

SHIPPING CHARGES:
Service Option Charges: \$0.35
Billed Weight Rate: \$11.30
Total Charge: \$12.15

PACKAGE INFORMATION:

Actual Weight: 8.50 lbs.
Billed Weight: 9.00 lbs.

Packaging: Carrier Box
Reference 1: RMA # 123-456
Reference 2:

[Cancel](#)

[« Back](#)

[Finish](#)

Step 2 of 2 - Confirm Ship Package